

*REMARKS*

Claim 18 has been amended to provide the proper antecedent basis.

Applicants submit that none of these amendments constitute new matter, and their entry is requested.

**Rejection under 35 U.S.C. § 112, second paragraph**

The Examiner rejected claim 18 under 35 U.S.C. § 112, second paragraph for being indefinite. Applicants submit that the amendment to claim 18 obviates this rejection, and its withdrawal is requested.

**Rejection under 35 U.S.C. § 103(a)**

The Examiner rejected claims 1-5 and 8-21 under 35 U.S.C. §103(a) as being unpatentable over Paddison et al. (published 15 April 2002) in view of Tuschl (published in May 2002), Yu et al. (published 30 April 2002), Livache (1998), and Jones (1990). The application claims the priority of 60/399,718, filed 8/1/2002 and 60/408,298, filed 9/6/2002. In addition, Applicants have determined the present invention was made prior to 15 April 2002 and thus prior to each of Paddison et al., Tuschel and Yu et al. Enclosed with this Amendment is a Rule 131 Declaration in which the inventors swear behind these references, thereby removing them as prior art. In view of the earlier date of invention and the removal of Paddison et al., Tuschel and Yu et al. as prior art, Applicants submit that the claimed invention is not rendered obvious by the prior art.

In view of the above remarks and the Rule 131 Declaration, it is submitted that the present invention is not rendered obvious by the prior art. Withdrawal of this rejection is requested.

**Rejection under 35 U.S.C. § 103(a)**

The Examiner rejected claims 6-7 under 35 U.S.C. §103(a) as being unpatentable over Tuschl (May 2002) and Livache (1998) in view of Jeng (1990). Applicants submit that the Examiner is in error in this rejection.

Technically, this rejection is improper because claims 6 and 7 are dependent on claim 1, and claim 1 was not rejected over Tuschl and Livache et al. Since Tuschl and Livache et al. apparently do not disclose or suggest all of the limitations of claim 1 (since claim 1 was not rejected over these two references alone), then the combination of Tuschl and Livache et al. with Jeng et al. also does not disclose or suggest all of the limitations of claims 6 and 7, which include the limitations of claim 1.

Furthermore, the present invention has a date prior to Tuschel as noted above and thus Tuschel is not prior art and cannot be used for formulating this rejection. In view of the earlier date of invention and the removal of Tuschel as prior art, Applicants submit that the claimed invention is not rendered obvious by the prior art.

In view of the above remarks and the Rule 131 Declaration, it is submitted that the present invention is not rendered obvious by the prior art. Withdrawal of this rejection is requested.

**Rejection under 35 U.S.C. § 103(a)**

The Examiner rejected claims 22-23 under 35 U.S.C. §103(a) as being unpatentable over Paul (published in May 2002) in view of Livache et al. (US 5,795,715). The application claims the priority of 60/399,718, filed 8/1/2002 and 60/408,298, filed 9/6/2002. In addition, Applicants have determined the present invention was made prior to 15 April 2002 and thus prior to Paul et al. In view of the earlier date of invention and the removal of Paul et al. as prior art, Applicants submit that the claimed invention is not rendered obvious by the prior art.

In view of the above remarks and the Rule 131 Declaration to be filed, it is submitted that the present invention is not rendered obvious by the prior art. Withdrawal of this rejection is requested.

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## **Conclusion**

In view of the above amendments and remarks, it is believed that the claims satisfy the requirements of the patent statutes and reconsideration of the instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

By / Barbara G. Ernst / Reg. No. 30,377 for

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